APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/499,526	02/10/2000	Kuanghui Lu	CIBT-P01-058	1398

28120   7590   03/11/2002

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EXAMINER
DEBERRY, REGINA M

ART UNIT	PAPER NUMBER
1647	

DATE MAILED: 03/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

	Application No.	Applicant(s)
Advisory Action	09/499,526	LU ET AL.
	Examiner	Art Unit	
	Regina M. DeBerry	1647	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 February 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

    (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): *improper Markush group in claim 28*.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☐ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: *13,15-23,28-33,39,45,46,50,51,53,54,57-60,63,76-78,85 and 87-91*.

    Claim(s) withdrawn from consideration: *1-12,24-27,34-38,40-44,47-49,52,55,56,61,62,64-75,79-84 and 86*.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: claims 13,15-23,28-33,39,45,46,50,51,53,54,57-60,63,76-78, 85 and 87-91 stand rejected under 35 USC 112, first paragraph scope of enablement. The rejections are maintained for reason of record. Applicants state that PYY agonist must be presumed to retain all functions of PYY in absence of any contrary evidence. The specification, however, states that agonist is meant to refer to an agent that upregulates at least one PYY bioactivity (page 14, lines 4-5). Furthermore, the specification gives a wide definition of what is considered a PYY agonist (page 14, lines 4-19). The specification is not enabled for the broad term PYY agonist. Reasonable correlation must exist between the scope of the claims and scope of enablement set forth. As was stated in the last Office Action, abstracts Bertrand et al. and Bottcher et al. teach that PYY INHIBITS insulin secretion stimulated by glucose. In these references the activity of PYY is opposite the activity disclosed in the instant applicaton. The Litvak and Balasubramanian references support PYY analogs involved in intestinal absorption, not the methods claimed in the instant application. Therefore Applicant has failed to overcome the 35 USC 112, first paragraph scope of enablement rejection.

Claims 13, 15-23, 28-33, 39, 45, 46, 50, 51, 53, 54, 57-60, 63, 76-78, 85 and 87-91 stand rejected under 35 USC 112, second paragraph. Applicants have replaced "PYY agonist" with "peptidyl PYY agonist". The structural metes and bounds of the term "peptidyl PYY agonist" cannot be determined.